



## VIRGINIA REAL ESTATE BOARD

# VREB *SPEAKING*

www.dpor.virginia.gov

Fall 2009

### Message from the Chair



**Carol F. Clarke**

The Real Estate Board has completed its 2009 meetings. As of September, 30, 2009, there were 48,126 licensed salespersons in Virginia. This number is down 14% from two years ago when there were 55,973 salespersons as of September 30, 2007.

In spite of the decrease in our numbers over the past two years, the Board has increased the number of disciplinary actions taken during that same time period. This may indicate, with the reduction in the total number of real estate transactions, each transaction is subject to greater scrutiny by the public, other licensees and the Board.

The Board has been increasing the amount of the fines we assess as penalties when we find

licensees in violation of the Board's regulations. The Board also usually requires additional education courses as part of the licensee's sanction. In most cases we require the additional education to be completed in the classroom and not on-line or by correspondence.

It is alarming to the Board that we continue to see the lack of broker supervision in many cases, and the number of "broker for hire" incidents does not seem to be decreasing. Another concern is the general lack of attention to detail in the writing of the contract and all of the subsequent disclosures and documentation required to keep the transaction on a smooth track to closing.

We continue to work on updating the Board's regulations and are looking at all aspects of our regulations. Many of the questions we receive pertain to education and advertising practices. With the increasing proliferation of social media networking, it appears many licensees are failing to properly disclose their status as a licensee when using these new avenues for promoting and advertising properties. Although the "one click away" rule applies to these marketing mediums, it is very important that the appropriate disclosure appear on that "one click away."

Please carefully read the other articles in this newsletter as we are providing you with policy updates from the Board and the Board's Advisory Council.

(Message continued on page 10)

Virginia Real Estate Board  
Perimeter Center, Suite 400  
9960 Mayland Drive  
Richmond, VA 23233  
804-367-8526

Timothy M. Kaine  
Governor

Patrick O. Gottschalk  
Secretary, Commerce & Trade

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### 2010 Meeting Dates

January 28, 2010

March 18, 2010

May 20, 2010

July 8, 2010

September 9, 2010

November 18, 2010

All meetings are held on the  
Second Floor of the Perimeter  
Center at the above address.

**BOARD MEMBERS**

Carol F. Clarke, Chair  
Charlottesville  
Licensee Member  
Four-year term ends on 6/30/12

Byrl P. Taylor, Vice-Chair  
White Stone  
Licensee Member  
Four-year term ends on 6/30/11

Nathaniel Brown  
Charlottesville  
Citizen Member  
Four-year term ends on 6/30/12

Judith L. Childress  
Martinsville  
Licensee Member  
Four-year term ends on 6/30/12

Marjorie Clark  
Richmond  
Citizen Member  
Four-year term ends on 6/30/10

Florence Daniels  
Alexandria  
Licensee Member  
Four-year term ends on 6/30/10

Scott M. Gaeser  
Manakin-Sabot  
Licensee Member  
Four-year term ends on 6/30/10

Sharon Parker Johnson  
South Hill  
Licensee Member  
Four-year term ends on 6/30/12

Clifford Wells  
Virginia Beach  
Licensee Member  
Four-year terms ends on 6/30/13

**DPOR Staff**

Jay DeBoer, Director

Mark Courtney, Deputy Director  
Licensing & Regulation Division

Nick Christner, Deputy Director  
Compliance & Investigations Division

Steven Arthur, Deputy Director  
Administration & Finance Division

Lizbeth Hayes, Director  
Fair Housing Office

Trisha Henshaw, Executive Director  
Common Interest Community Board

**Real Estate Board Staff**

Christine Martine  
Executive Director

Kevin Hoeft  
Education Administrator

Maryanne Woo  
Licensing Supervisor

Emily Trent  
Administrative Assistant

**Board Contact Information**

Executive Director - 804-367-8552

Licensing Section - 804-367-8526

Education Section - 804-367-2406

Fax Number - 804-527-4298

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Web - www.dpor.virginia.gov

DPOR Main Number - 804-367-8500

Complaints Section - 804-367-8504

## Fingerprinting/Criminal Record Background Check Required for New Licensees Update

The Board has updated information for license applicants, licensees and education providers concerning the new fingerprinting requirement for each new real estate salesperson or broker license applicant. Please review the Summer 2009 *VREB Speaking* article on this subject in the "Newsletters" section on the Board's website at: [http://www.dpor.virginia.gov/dporweb/reb\\_main.cfm](http://www.dpor.virginia.gov/dporweb/reb_main.cfm)

The Summer 2009 *VREB Speaking* article indicated the fingerprinting "process may take a few weeks." In practice, after an applicant is fingerprinted electronically at a PSI location, he/she will be given paperwork stating that the process can take up to four weeks for the Board to receive the criminal history record search results from the Virginia State Police and FBI. Occasionally, for some reason, an applicant's electronic fingerprints cannot be used, and the applicant must be fingerprinted manually. In this case, it can take up to eight weeks for the Board to receive the criminal history record search results from the Virginia State Police and the FBI.



In addition, at its September 10, 2009, meeting, the Board heard reports that one or more real estate pre-license education providers were advising their students to go to PSI Exams and have their fingerprints taken for the criminal history record search check BEFORE these students had completed their real estate pre-license education course. This is not a good idea. The Board determined on September 10, 2009, that an applicant's criminal history record search is valid for 45 calendar days prior to the applicant's license issue date. Education providers, therefore, should not advise students to have their fingerprints taken before they complete the pre-license education course. If an applicant's criminal history record search is more than 45 calendar days old, the criminal history record will be rejected by the Board. If this occurs, the applicant must pay to be fingerprinted again.

## Fair Housing

The Fair Housing Board administers and enforces the Virginia Fair Housing Law, although the Real Estate Board is responsible for fair housing cases involving real estate licensees or their employees. Each board investigates housing discrimination through the Virginia Fair Housing Office at the Department of Professional and Occupational Regulation. All fair housing cases must attempt conciliation – an alternative dispute resolution approach using informal negotiation. Successful conciliation agreements are public unless both parties request and agree to a confidentiality clause. If conciliation is unsuccessful in resolving the complaint, the Board determines whether reasonable cause exists to support a charge of discrimination. In cases where the Board determines reasonable cause and issues a charge of discrimination, the Office of the Attorney General brings civil suit in circuit court seeking relief for the complainant. The following cases represent fair housing actions rendered by the Real Estate Board at its September and November 2009 meetings:

<b><u>Action</u></b>	<b><u>Case Number</u></b>	<b><u>Case Name</u></b>
Discrimination by Making Discriminatory Statements	2009-00405	Larissa Ann Wells and Jamie Davis v. Debra M. Gantt
Conciliation Agreement	2009-03702	Paul and Renee Saulsbury v. Carol Bennett, Jack L. Smith and Jack L. Smith Enterprises, Inc., t/a Old Towne Realty
Conciliation Agreement	2010-00198	John M. Lalumandier v. Paul Goodman
Conciliation Agreement	2009-02223	Melissa Cartwright v. Charles Nimmo and F & W Management, LC
Conciliation Agreement	2010-00928	Rodney Hairston & Angelika Gibson v. Carson Carter & Ed Dolan

## Real Estate Board and Real Estate Appraiser Board Broker Price Opinion Working Group and Guidance Document

At its February 24, 2009, meeting, the Real Estate Appraiser Board (REAB) established a Broker Price Opinion (BPO) Committee to determine whether BPOs performed by Virginia licensed real estate brokers and salespersons comply with federal or state law or regulation. The REAB expressed concern that some BPOs performed by licensed salesperson and brokers may have been performed and used when an appraisal was required. The BPO Committee consists of REAB Chair Diane Quigley and REAB members Richard Pruitt, Betsy Critzer and Glenn James.

The BPO Committee met on May 22, 2009, and heard concerns about BPOs conducted by salespersons and brokers from Virginia Certified Residential Real Estate Appraisers Mack Strickland and Jayne Allen. Former REAB Member Pat Turner suggested the REAB seek to establish a working group with the Virginia Real Estate Board (REB) to examine the performance of BPOs by REB licensees.

The Committee also heard from Virginia Association of Realtors Special Counsel Lawrence Marshall who recommended the Committee focus on establishing sound standards for real estate licensees who conduct BPOs in accordance with Virginia law.

The BPO Committee approved two actions on May 22: 1) The REAB seek to establish a Working Group with the REB to address BPOs; and 2) Direct Board staff to summarize BPO prohibitions in other states.

REAB Chair Diane Quigley wrote a letter to REB Chair Carol Clarke requesting a REAB and REB BPO Working Group be established. The REB considered and approved this request at its July 9, 2009, meeting and appointed Board members Byrl Phillips Taylor, Scott Gaeser and Sharon Johnson to serve on the Working Group.

The REAB and REB BPO Working Group met on September 1, 2009. At this meeting, Mr. Strickland stated he believes BPOs are appraisals and an appraiser license should be required to perform a BPO.

Ms. Allen stated that real estate licensees who conduct BPOs should meet minimum education and qualification standards. She submitted a copy

of the BPO Standards Board "Broker Price Opinions Standards and Guidelines" document as an example of some of these standards.

Mr. Marshall stated that § 54.1-2010.A.1 of the *Code of Virginia* is the governing statute authorizing licensed real estate brokers and salespersons to perform BPOs or Comparative Market Analyses (CMAs). This statute allows licensed brokers and salespersons "in the ordinary course of business, [to] provide a valuation or analysis of real estate for a fee; however, such person shall not hold himself out as a real estate appraiser, and the valuation shall not be referred to as an appraisal and shall not be used in lieu of an appraisal performed by a licensed appraiser."

Mr. James stated that it may be helpful to implement standards of practice to improve the quality of BPOs performed by real estate licensees. He cited the BPO Standards Board "Broker Price Opinions Standards and Guidelines" document as a resource for establishing such standards of practice.

The BPO Working Group approved three items at the September 1 meeting: 1) Board staff to draft a guidance document for REB consideration outlining the current statutory and regulatory provisions governing the creation of BPOs/CMAs by real estate licensees; 2) If the REB adopts this guidance document, then an article explaining its provisions should be placed in an upcoming issue of *VREB Speaking*; and 3) The REB may consider amending its regulations to add provisions governing the creation of BPOs/CMAs by its licensees.

The Real Estate Board considered and approved a "Broker Price Opinions Guidance Document" at its November 19, 2009, meeting.

This Guidance Document is reproduced on Page 10 of this newsletter and is online at: <http://www.townhall.virginia.gov/L/GDocs.cfm?boardid=91>

The May 22, 2009, and September 1, 2009, BPO Working Group Meeting Minutes are online at: <http://www.townhall.virginia.gov/L/Meetings.cfm?boardid=90&time=past180>



## Real Estate Board Advisory Council Annual Meeting

By Joseph K. Funkhouser, II, Advisory Council Chairman



The Virginia Real Estate Board Advisory Council (Advisory Council) met in Richmond on November 5, 2009, to review the Board's post license education program for new salesperson licensees pursuant to § 54.1-2105.01.B of the *Code of Virginia*.

The Advisory Council welcomed four new members appointed by the Real Estate Board. They are Real Estate Board Member and Education Committee Chair Judith Childress, Real Estate Board Member Scott Gaeser, Joseph Carney of William E. Wood & Associates, Inc. of Virginia Beach and Boyd Smith of RE/MAX Commonwealth of Midlothian.

These new members replaced Cindy Stackhouse, Doug Sawyer, Sandra Wilkinson and Susan Holbrook Daly, who served on the Advisory Council since it was established in 2003. We are grateful for their exceptional service to the Board during their tenure on the Advisory Council.

At its 2007 and 2008 meetings, the Advisory Council concluded the post license education program's three practice track format (Residential Real Estate, Commercial Real Estate and Property Management) has not met the program's initial goal of providing the best education for new salespersons. As a result, in both 2007 and 2008, the Advisory Council recommended the Real Estate Board (the Board) work to amend the *Code of Virginia* to remove the three practice tracks from the post license education program.

On November 5, 2009, DPOR Director Jay DeBoer informed the Advisory Council that its recommendation to remove the three practice tracks from §54.1-2105.01 of the *Code of Virginia* was not included in the DPOR legislative agenda for the 2009 or 2010 General Assembly sessions due to Governor Kaine's legislative priorities for DPOR. Mr. DeBoer explained that although the Advisory Council recommendation is important, it did not rise to the level of being included as part of the Governor's limited legislative agenda.

Board Education Administrator Kevin Hoeft informed the Advisory Council of the post license education (PLE) program change that requires every new salesperson licensed on or after July 1, 2008, to complete the 30-hour PLE requirement within one year of the salesperson license issue date. If a new salesperson fails to meet this requirement within one year of the license issue date, then the license is automatically placed on inactive status by the Board. As of October 22, 2009, about 460 of the 1300 new salespersons subject to this new requirement failed to complete the PLE requirement and had their licenses placed on inactive status by the Board.

During its discussion on November 5, 2009, the Advisory Council affirmed its recommendation to the Board that the three practice tracks be removed from the Code of Virginia. The Advisory Council also discussed the format of the current PLE program and recommended that the Board change the Post License Education program to require 10 Mandatory Topic hours for each Practice Track consisting of the topics outlined in §54.1-2105.01.C of the *Code of Virginia* and that the number of hours specified for each Practice Track's Elective Topics be removed so that any Elective Topic(s) course for each Practice Track could be approved by the Board for one to 20 hours.

Currently, the Residential Track requires 15 Mandatory Topic hours, the Commercial Track requires 9 Mandatory Topic hours, and the Property Management Track requires 20 Mandatory Topic hours. Also, Elective Topic courses for all three Practice Tracks can now only be approved for one to four hours.

At its November 19, 2009, meeting, the Board approved the 2009 Advisory Council report and directed its Education Committee to examine the Advisory Council's recommendation to change the PLE program at the Committee's next meeting on January 27, 2010. You can review the Advisory Council report at: <http://www.townhall.virginia.gov/L/Meetings.cfm?boardid=91&time=past180>

## Real Estate Board Administrative Operations

As of November 1, 2009, the Real Estate Board (the Board) licensed or certified 13,259 brokers, 47,873 salespersons, 6,321 firms, 466 pre-license education instructors and 141 proprietary schools for a total of 68,060 license and certificate holders. Some Board licensees may wonder how their various licensing and renewal fees are used. A large portion of these fees are used to pay for the Board's Administrative operations, which are divided into three sections: Licensing, Education and Administration.

The Licensing Section handles the majority of the Board's incoming paperwork and phone calls. Licensing staff receives and processes the various salesperson, broker and firm license applications received by the Board. Licensing staff also handles license activation and transfer applications, address and name change requests, license certification requests, license inactivation requests, and supervising broker change forms.

It may be helpful to know that Board Licensing staff does not handle or process cash, checks or credit card payments. The DPOR Finance Section handles all cash, checks and credit card payments for the 18 regulatory boards within DPOR. Whenever paperwork with cash, check or a credit card form is mailed to the Board it is first directed to DPOR Finance for money processing and the remaining paperwork is then directed to the Board.

Complete applications are usually processed within 2-3 business days with the appropriate license or certification issued or transaction completed. However, as you might expect, many of the applications received and processed by Licensing staff are incomplete and require return correspondence informing the applicant of the missing application elements. These applications are then placed in the Board's "incomplete application" file.

Licensing staff receives hundreds of phone calls each day from license applicants, current licensees and members of the public touching on a myriad of subjects. Most phone calls are related to the initial licensure and renewal of some type of Real Estate Board license or certificate, but calls regarding complaints against licensees, questions about the Board's laws and

regulations, and continuing education requirements are not uncommon. The Licensing Section also handles all calls concerning licensing examinations, PSI Exams, reciprocal licensure, and pre-license education requirements.

The fingerprinting/criminal history record search required for new salesperson and broker applicants has added to Licensing staff's workload as incoming applications to the Board must be matched up with incoming criminal history records from the Virginia State Police. Applications with criminal convictions must be reviewed by staff to determine whether the applicant can be licensed or must go through an administrative hearing process before the Board.

The Education Section administers the Board's pre-license, post license and continuing education programs. Education staff receives and processes all school, instructor and pre-license, post license, and continuing education course applications for review by the Board's Education Committee. The Education Committee then reviews all applications and recommends school, instructor and course approval or denial to the Board, which makes all final education application decisions.

Education staff downloads electronic continuing and post license education course completion information received from Board-approved education providers to the individual broker and salesperson license records in the Board's database. This course completion information is reflected the next business day on each individual license record on the DPOR public website under the "License Look-up" option at: [www.dpor.virginia.gov](http://www.dpor.virginia.gov).

Education staff also receives dozens of phone calls each day. Most of these calls are from licensees who have questions regarding their continuing education or post license education requirement or whether courses they have completed have been posted with the Board.

The Board's Administration Section is responsible for overall supervision of all Board functions, sets up and administers all Board meetings, ensures licensee compliance with all disciplinary actions assessed by the Board, and oversees the Board's regulatory review process.



## DISCIPLINARY ACTIONS



The Real Estate Board (the Board) licenses or certifies real estate salespersons, brokers, firms, proprietary schools and pre-license instructors. If a complaint is filed against a licensee who is subject to the laws and regulations of the Board, the complaint is reviewed by the Compliance and Investigations Division (CID) of DPOR to determine if a violation of these laws or regulations may have occurred. If there is probable cause of a violation, an investigation is initiated. If the investigation reveals that one or more violations may have occurred, the licensee receives notice to appear at an informal fact-finding conference (IFF) to address these alleged violations.

In some cases the licensee may be offered a pre-IFF Consent Order. A Consent Order is an agreement between the licensee and the Board consisting of specific violations and sanctions. Pre-IFF Consent Orders eliminate the time and expense associated with conducting an IFF.

If an IFF is held, a recommendation from the IFF hearing officer consisting of proposed violations and sanctions is submitted to the Board for consideration at its next meeting. The Board can take the following disciplinary actions against a licensee: assess a monetary penalty; suspend or revoke a license; place an individual on probation; require additional education; or deny renewal. A licensee can continue to practice throughout the disciplinary process until the Board either revokes or suspends his license.

**THE FOLLOWING DISCIPLINARY ACTIONS RENDERED BY THE BOARD AT ITS SEPTEMBER and NOVEMBER 2009 MEETINGS CAN BE VIEWED AT: [www.dpor.virginia.gov](http://www.dpor.virginia.gov). Click on "License Lookup." Then click on "Search Disciplinary Actions Occurring since April 1, 2002." Then enter the Case Number in the blank "Search" box. Then click on the "Search" button. Then click on the highlighted "File Number." The Order and Report of Findings for that case will appear.**

<u>Case Number</u>	<u>Licensee</u>	<u>Violations &amp; Sanctions</u>
2009-02167	Yousef Raza Dumfries, VA	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$1000, \$150 Board Costs, Broker License Revoked and issued a Salesperson License, 8 hours Continuing Education, 1 Year License Probation
2009-02619	Jeffrey J. Vinson Dumfries, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (5 counts) Fined \$2250, License Revocation
2008-04407	Christine C. Murphy Chincoteague Island, VA	18 VAC 135-20-180 - Maintenance/Manage. Escrow Accts (2 counts) 18 VAC 135-20-185 - Maintenance/Management Financial Records 18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$3400, \$150 Board Costs, Broker License Surrendered and issued a Salesperson License, 8 hours Continuing Education, 1 Year License Probation
2009-02563	Travis D. Gay Suffolk, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (3 counts) Fined \$800, 3 Years License Probation
2009-03846	William C. McKnew Williamsburg, VA	18 VAC 135-20-310 - Delivery of Instruments Fined \$350, \$150 Board Costs, 2 hours Continuing Education
2009-00624	Emranur Z. Kabir Springfield, VA	18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-310 - Delivery of Instruments Fined \$1900, \$150 Board Costs, 8 hours Continuing Education
2009-02755	Nora K. Critz Axton, VA	18 VAC 135-20-170 - Maintenance of License Fined \$250, \$150 Board Costs



## DISCIPLINARY ACTIONS (Cont.)



<u>Case No.</u>	<u>Licensee</u>	<u>Violations &amp; Sanctions</u>
2009-02170	Thomas C. Schools, Jr. Warsaw, VA	§54.1-2139.A - Failure to Act as a Dual Agent only with the Written Consent of all Clients to the Transaction 18 VAC 135-20-210 - Failure to Disclose Interest 18 VAC 135-20-260 - Unworthiness & Incompetence \$150 Board Costs, License Suspension until 16 hours of Continuing Education Completed
2009-02172	Debra G. Schools Warsaw, VA	§54.1-2139.A - Failure to Act as a Dual Agent only with the Written Consent of all Clients to the Transaction 18 VAC 135-20-210 - Failure to Disclose Interest 18 VAC 135-20-260 - Unworthiness & Incompetence \$150 Board Costs, License Suspension until 16 hours of Continuing Education Completed
2009-03820	Robert C. Dodge Gainesville, VA	18 VAC 135-20-180 - Maintenance/Management Escrow Accounts Fined \$400, \$150 Board Costs
2008-04109	Johar Mirza Annandale, VA	18 VAC 135-20-220 - Disclosure of Brokerage Relationships 18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-300 - Misrepresentation/Omission Fined \$2550, \$150 Board Costs, License Surrendered
2009-03373	Judy W. Austin Occoquan, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) Fined \$4150, \$150 Board Costs, 4 hours Continuing Education
2009-01576	Tom M. Ross Newport News, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) Fined \$5000, License Revocation
2009-03783	Brian A. Sivak Chesterfield, VA	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$1650, \$150 Board Costs, 4 hours Continuing Education
2009-03049	Glenn G. Glakas Centreville, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) Fined \$3000, \$150 Board Costs, 6 hours Continuing Education
2008-00746	Judy C. Horne Cedar Bluff, VA	18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-310 - Delivery of Instruments Fined \$1500, License Probation until Complete 7 hours Continuing Ed
2009-01896	Mirtes S. Happy-Nysven Fairfax, VA	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$1550, License Revocation
2009-02566	Monica M. Lobo Fairfax, VA	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$500, License Revocation
2008-03617	Charles Badu Woodbridge, VA	18 VAC 135-20-190 - Advertising by Licensees 18 VAC 135-20-210 - Failure to Disclose Interest 18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$5000, License Revocation, License Probation until Complete 12 hours of Continuing Education
2008-03509	Mensah Y. Adomako Woodbridge, VA	18 VAC 135-20-210 - Failure to Disclose Interest 18 VAC 135-20-260 - Unworthiness & Incompetence (3 counts) Fined \$6500, License Revocation
2009-02888	Marilyn K. Brennan Haymarket, VA	§54.1-2131.A.4 - Failure to Exercise Ordinary Care Fined \$850, \$150 Board Costs, 4 hours Continuing Education
2009-04060	Dan Ingersoll, t/a Blue Ridge Property, LLC Lynchburg, VA	Cease and Desist from Acting as an Unlicensed Real Estate Broker or Salesperson in Virginia





## DISCIPLINARY ACTIONS (Cont.)



<b><u>Case No.</u></b>	<b><u>Licensee</u></b>	<b><u>Violations &amp; Sanctions</u></b>
2009-04452	Temor M. Sharifi Sterling, VA	18 VAC 135-20-260 - Unworthiness & Incompetence License Revocation
2009-04254	Jen K. Kim Centreville, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) \$150 Board Costs, License Revocation
2009-01960	Barbara A. Mancini Vienna, VA	18 VAC 135-20-250 - Failure to Respond to Board Inquiry 18 VAC 135-20-280 - Improper Brokerage Commission Fined \$2500, License Revocation
2009-00206	Patricia A. Hill Alexandria, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (4 counts) Fined \$4450, License Revocation
2009-00069	Lawrence L. Lindsey Gainesville, VA	18 VAC 135-20-185 - Maintenance/Management Financial Records (3 counts) 18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$4300, License Revocation
2009-04320	Cherry L. Rose Williamsburg, VA	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$1150, License Probation & Quarterly Reporting for 2 years, 8 hours Continuing Education
2009-03296	Debra L. Medina Chesterfield, VA	18 VAC 135-20-180 - Mainten./Manage. Escrow Accounts (2 counts) 18 VAC 135-20-260 - Unworthiness & Incompetence 18 VAC 135-20-270 - Conflict of Interest Fined \$7300, \$150 Board Costs, License Revocation
2009-02434	Ann C. Dollard Oakton, VA	18 VAC 135-20-210 - Failure to Disclose Interest Fined \$100, 4 hours Continuing Education
2009-02612	Ernest M. Dill Fredericksburg, VA	§54.1-2131.A.4 - Failure to Exercise Ordinary Care 18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$1500, License Revocation
2009-02381	Charles W. Bengel Alexandria, VA	18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) Fined \$4150, \$150 Board Costs, 4 hours Continuing Education
2008-04500	Sergio J. Herrera Fairfax, VA	18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$750, 4 hours Continuing Education
2008-00705	John A. Ruff Bedford, VA	§54.1-2135.A.1 - Failure to Exercise Ordinary Care in Managing Real Estate (2 counts) 18 VAC 135-20-185 - Maintenance/Management Financial Records (3 counts) 18 VAC 135-20-240 - Failure to Provide Records to the Board 18 VAC 135-20-260 - Unworthiness & Incompetence Fined \$4450, 6 hours Continuing Education, License Revocation
2009-03696	S. Charles Volpe Lexington, VA	§54.1-2135.A.1 - Failure to Exercise Ordinary Care in Managing Real Estate (9 counts) 18 VAC 135-20-180 - Mainten./Manage. Escrow Accounts (3 counts) 18 VAC 135-20-185 - Maintenance/Management Financial Records 18 VAC 135-20-260 - Unworthiness & Incompetence (2 counts) 18 VAC 135-20-300 - Misrepresentation/Omission Fined \$13,450, \$150 Board Costs, Fines Waived for License Revocation

# Broker Price Opinion Guidance Document

The Real Estate Board is issuing this guidance document in order to assist its licensees in understanding the requirements of § 54.1-2010.A.1 of the *Code of Virginia* as a means of providing information or guidance of general applicability to the public:

To ensure that the Real Estate Board's broker and salesperson licensees comply with § 54.1-2010.A.1 of the *Code of Virginia*, the Board prohibits any licensee who provides a valuation or analysis of real estate (such as a Broker Price Opinion) for a fee in the ordinary course of business from holding himself out as a real estate appraiser. Such valuation or analysis shall not be referred to as an appraisal, and it shall not be used in lieu of an appraisal performed by a certified or licensed appraiser when an appraisal is required by federal or state law or regulation.

Further, in accordance with 18 VAC 135-20-300.8 of the Board's Regulations, any licensee who knowingly makes any false statement or report, or willfully misstates the value of any land, property or security for the purpose of influencing in any way the action of a lender may be in violation of the Board's regulation prohibiting misrepresentation or omission.

Further, in accordance with 18 VAC 135-20-160 of the Board's Regulations, every principal broker or supervising broker of a place of business or branch office shall exercise reasonable and adequate supervision of the provision of real estate brokerage services (to include the valuation or analysis of real estate, e.g., Broker Price Opinions) by associate brokers and salespersons assigned to the place of business or branch office.

Further, in accordance with 18 VAC 135-20-280.2 of the Board's regulations, it is improper to accept a commission or other valuable consideration (including fees for Broker Price Opinions), as a real estate salesperson or associate broker, from any person except the licensee's principal broker at the time of the transaction, for performance of any of the acts specified in Chapter 21 (§54.1-2100 et seq.) of the *Code of Virginia* or the regulations of the board or related to any real estate transaction without the consent of the broker.

Further, in accordance with 18 VAC 135-20-330 of the Board's Regulations, principal and supervising brokers may be held responsible for failing to take reasonable action to remedy situations that lead to unlawful acts or regulatory violations by licensees and employees under their supervision.

## (Message from the Chair - continued from page 1)

Many of you have asked that we resume mailing of *VREB Speaking*. Due to Commonwealth budget curtailments, this is not something we will be able to do in the foreseeable future. We encourage you to share *VREB Speaking* content with others and encourage other licensees to read this publication.

As always, we invite you to attend and observe a Board meeting. Our meeting dates for 2010 are on page 1 of this newsletter. We also invite your questions and concerns. You can email me at [reboard@dpor.virginia.gov](mailto:reboard@dpor.virginia.gov) or call the Board office at 804-367-8526.

Happy Holidays and Happy New Year,

Carol Clarke, Chair

